

(DRAFT)
Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
November 13, 2007 (9:00 a.m.)

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Dorothy Wood, Board member, presided. No other Board members were present.

Doug Schroder and Dean Ricks appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc = Disciplinary Case
Lic = Licensing Application
RF = Recovery Fund Claim
Trades = Tradesmen Disciplinary Case/Application

C = Complainant/Claimant
A = Applicant
R = Respondent/Regulant
W = Witness
Atty = Attorney

Participants

- | | |
|--|--|
| 1. Joann Hamilton
t/a C A Hamilton & Co
File Number 2007-03114 (Disc) | Hamilton – R |
| 2. Bruce Wayne Glass
File Number 2007-03167 (Disc)
(NO DECISION MADE) | None |
| 3. M O Brockett
t/a M O Brockett Electrical Contractor
File Number 2007-03251 (Disc)
(NO DECISION MADE) | Marion Browning-Baker - C
(by phone) |
| 4. New Millenium Contracting, LLC
File Number 2007-02746 (Disc)
(NO DECISION MADE) | Ronald Payne – R
C. Thomas Brown – R Atty |

5. Terry Connelly
t/a N & R Home Renovations
File Number 2007-03962 (Disc)
(NO DECISION MADE)

None

The meeting adjourned at 1:01 p.m.

BOARD FOR CONTRACTORS

Mark D. Kinser, Chairman

Jay DeBoer, Secretary

COPY TESTE:

Custodian of Records

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: Joann Hamilton, t/a C A Hamilton & Co
Gloucester, VA 23061

File Number 2007-03114
License Number 2705103332

CONSENT ORDER

Respondent Joann Hamilton, t/a C A Hamilton & Co ("Joann Hamilton") recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

Board's Regulations provides:

18 VAC 50-22-200. Remedial education, revocation or suspension; fines.

The board may require remedial education, revoke or suspend a license or fine a licensee when a licensee has been found to have violated or cooperated with others in violating any provision of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, or any regulation of the board.

Historical Notes:

Derived from VR220-01-2:1 §5.1, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended:

On October 9, 2007, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Joann Hamilton to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On November 13, 2007, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Hamilton on behalf of C.A. Hamilton, Respondent; Doug Schroder and Jennifer Winters, Staff Members; and Dorothy Wood, Presiding Board Member.

The Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order.

The Board and Joann Hamilton, as evidenced by the signatures affixed below, enter into this Consent Order. Joann Hamilton knowingly and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

By signing this Consent Order, Joann Hamilton acknowledges an understanding of the charges and hereby admits to the violation(s) of the Counts as outlined in the Report of Findings. Joann Hamilton consents to the following term(s):

	Count 1	18 VAC 50-22-260.B.8	\$250.00
	Count 2	18 VAC 50-22-260.B.15	\$1,000.00

	SUB-TOTAL (MONETARY PENALTIES)		\$1,250.00
	BOARD COSTS		\$500.00
	TOTAL		\$1,750.00

Further, for violation of Counts 1 and 2, Joann Hamilton agrees to have a member of the Responsible Management successfully complete a Board-approved remedial education class.

Any monetary penalties, costs, and/or sanctions are to be paid/performed within ninety days of the effective date of this consent order unless otherwise specifically noted above. Joann Hamilton acknowledges any monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Joann Hamilton will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in Section 58.1-15 of the 1950 Code of Virginia, as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

Joann Hamilton acknowledges that failure to pay any monetary penalty or cost and/or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Joann Hamilton's license until such time as there is compliance with all terms of this Order. Joann Hamilton understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

The undersigned represents and affirms that he/she has the authority to legally bind Joann Hamilton, t/a C A Hamilton & Co, to this Consent Order. The individual, by his/her signature below, acknowledges he/she read the Consent Order, understands it, and agrees that Joann Hamilton, t/a C A Hamilton & Co, shall be bound by its terms and conditions.

Signature

Date

Printed Name and Title

WITNESSED BY:

The individual named above signed this document in my presence.

Witness Signature

Date

Printed Name and Title

SO ORDERED:

Entered this _____ day of _____, 2007.

Board for Contractors

BY: _____
Jay W. DeBoer, Secretary

EOO

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATION DIVISION
3600 WEST BROAD STREET
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: May 29, 2007 (revised October 5, 2007)

FILE NUMBER: 2007-03114
RESPONDENT: Joann Hamilton, t/a C.A. Hamilton & Co.
LICENSE NUMBER: 2705103332
EXPIRATION: March 31, 2008

SUBMITTED BY: Michael Heaney
APPROVED BY: Valerie J. Matney

COMMENTS:

Respondent provided a copy of a revised contract form, therefore a charge for failing to include minimum provisions in the contract was not pursued.

Joann Hamilton ("Hamilton"), t/a C.A. Hamilton & Co., was at all times material to this matter a licensed Class C contractor in Virginia (No. 2705103332).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On January 31, 2007, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Jose A. Nazario and Emily Nazario ("the Nazarios") regarding Hamilton. (Exh. C-1)

On October 13, 2006, Hamilton presented a written estimate ("contract"), in the amount of \$3,700.00, to the Nazarios, to construct a concrete driveway extension and a basketball court at 730 Harpersville Road, Newport News, Virginia. The Nazarios verbally agreed to the contract. (Exh. C-2 and I-1)

On October 17, 2006, the Nazarios paid Hamilton \$2,500.00 by two check payments with the balance of \$1,200.00 to be paid upon completion of the contracted work. (Exh. C-3 and I-1)

On October 20, 2006, Hamilton commenced work. (Exh. I-1)

1. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

8. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54.1-1100 of the Code of Virginia. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or his agent.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

The contract was not signed by either Hamilton or the Nazarios. (Exh. C-2)

In a written response dated March 29, 2007, Hamilton alleged that her husband signed the contract and that Emily Nazario also signed the contract and told Hamilton's husband she would fax it to Hamilton's office. (Exh. R-1) The Nazarios deny this. (Exh. I-1)

2. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

15. The intentional and unjustified failure to complete work contracted for and/or to comply with the terms in the contract.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

The agreement specified the following contracted work specifications:

- Move existing gate at end of driveway.
- Extend existing driveway 25' long and 12' wide, level ground and finish with concrete.
- Install a new gate at the end of the new driveway.
- Basketball Court: Level ground where needed.
- Install concrete basketball court (25' x 30') in backyard.
- Labor and Materials Included (no landscaping included). (Exh. C-2)

The last day Hamilton performed work at the subject property was October 30, 2006. (Exh. I-1)

Between November 1, 2006, and the first week of December 2006, the Nazarios telephoned Hamilton several times requesting completion of the contracted work. Hamilton told them she would not perform the work until the balance of \$1,200.00 was paid. (Exh. I-1)

In a written response dated March 29, 2007, Hamilton stated that because of personal problems the company was unable to complete the contracted work without charging additional costs. (Exh. R-1)

On April 17, 2007, Hamilton presented a written contract, in the amount of \$2,600.00, to the Nazarios to complete the contracted work, increasing the total cost of the project by \$1,400.00. The Nazarios rejected the offer. (Exh. R-2, I-2, and I-3)

As of May 2, 2007, Hamilton failed to complete the following contracted work specified in the agreement:

- Driveway extension, level ground, and finish with concrete.
- Level ground for basketball court. (Exh. I-1 and I-3)